

REMARKS

Claims 1-6, 8-25, 27-29, 31-36 and 40 are pending in the application. Claims 1-6, 8-15, 17-22, 25, 27-29, 31, 32, 35 and 40 have been rejected and claims 16, 23, 24, 33, 34 and 36 have been objected to. Amended claim 1 is directed to a shoe or leather care product in the form of a water continuous emulsion, which includes a high amount of an aqueous phase, an oil phase and an emulsifier system that includes a particular co-emulsifier. The co-emulsifier includes a first component chosen from the group of carboxylic acids, fatty acids and a combination thereof and a second component chosen from the group of multivalent neutralizing agents, multivalent cations, multivalent metal soaps and combinations thereof. The emulsion so formed has a VOC below 22 wt%, based on the weight of total product.

Applicants respond specifically to the issues raised in the Final Office Action mailed on June 21, 2006 as follows:

Specification

Applicants have amended the specification to add a paragraph after the last line of page 22. Support for this paragraph is found in claims 16 and 19 of the corresponding European Patent Application EP 03076143.1. Under Section 608.01(l) of the MPEP, the Applicants have the right to add this additional disclosure and it is not new matter.

Claim Rejections -- 35 USC § 112

Claim 19 has been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification. Specifically, the Examiner has found that

claim 19 contains new matter because there is no support for claiming all carboxylic acids, all fatty acids and any combinations of these acids that have an HLB value below 13. Applicants have amended the specification so that there is now support for claim 19.

Claims 16 and 19 of the corresponding European Patent Application EP 03076143.1 (published as EP 1 469 051 A1 -- a copy is being submitted herewith) from which the present application claims priority read:

16. Shoe or leather care product according to any of the claims 13-15, wherein the co-emulsifier is a mixture of carboxylic acids and/or fatty acids in combination with multivalent neutralising agents and/or multivalent metal cations and/or multivalent metal soaps and/or di-, tri- or multi- amine soaps and/or a mixture of any fatty acid derivatives including fatty acid esters and/or fatty alcohols and/or fatty acid amides and/or fatty acid amines and/or fatty acid amine oxides and/or any derivatives thereof.

19. Shoe or leather care product according to claim 16, wherein each constituent material has a HLB value below 13, preferably below 10, more preferably below 8.

Applicants have amended the specification to incorporate the disclosure in claims 16 and 19 of EP 03076143.1. Section 608.01(1) of the MPEP states that:

In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it.

Where subject matter not shown in the drawing or described in the description is claimed in the application as filed, and such original claim itself constitutes a clear disclosure of this subject matter, then the claim should be treated on its merits, and requirement made to amend the drawing and description to show this subject matter. The claim should not be attacked either by objection or rejection because this subject matter is lacking in the drawing and description. It is the drawing and description that are defective, not the claim.

In view of the amended specification, claim 19 does not contain new matter. The claim for “all carboxylic acids, all fatty acids and any combinations of these acids that have an HLB value below 13” has been properly incorporated from the corresponding European Patent Application EP 03076143.1 so that there is now support in the specification. Accordingly, Applicants respectfully request that the rejection of claim 19 based on a finding that it contains new matter be withdrawn.

Claims 1, 20 and 21 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite based on a finding that “it is unclear how and why the multivalent, i.e. divalent and trivalent cations do not react with the other components.” Applicants have amended claim 1 so that “the co-emulsifier comprises a combination of a first component . . . and a second component.” One of ordinary skill in the art would understand that such a combination would include unreacted components as well as compounds that are formed when the two components are combined. After a period of time, a substantially steady state condition is reached for the combination of the first and second components. Moreover, one of ordinary skill in the art would understand that chemical reactions rarely go to 100% completion. Therefore, after the first and second components react, in addition to the compounds that are formed, there will still be some unreacted acids and cations remaining in the co-emulsifier.

Claims 17 and 22 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite because they are identical. Applicants have cancelled claim 22 to overcome this rejection.

Claim Rejections -- 35 USC § 103(a)

Claims 1-6, 8-15, 17, 22, 25, 27-29, 31, 32, 35 and 40 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No, 4,554,083 to Soldanski et al. ("Soldanski"). Soldanski discloses a liquid leather-care composition containing: a wax; lanolin; a dispersible; film-forming aliphatic polyurethane resin; a water-soluble polymeric polycarboxylic acid; a non-ionic emulsifier; a water-soluble hydroxyalkylamine; at least one of perfume oils, preservatives, foam inhibitors, emulsifying aids, and dyes; and a liquid flow promoter.

Claim 1 has been amended to delete "a multivalent amine" from the second component of the co-emulsifier so that the "co-emulsifier comprises a combination of a first component chosen from the group of carboxylic acids, fatty acids and a combination thereof and a second component chosen from the group of multivalent neutralizing agents, multivalent cations, multivalent metal soaps and combinations thereof." Soldanski neither teaches nor suggests a co-emulsifier that includes "multivalent neutralizing agents, multivalent cations, multivalent metal soaps and combinations thereof." Accordingly, amended claim 1 and the claims which depend from claim 1 are not obvious in view of Soldanski and Applicants respectfully request that the rejection based on Soldanski be withdrawn.

Objected to Claims

Claims 16, 23, 24, 33, 34 and 36 have been objected to as being dependent upon a rejected claim. Applicants have amended claims 16 and 23 so that they are now in independent form and amended claim 17 so that it now depends on claim 16. Accordingly, independent

claims 16 and 23 and dependent claims 17, 19 and 24, which depend from them, should now be in allowable form. Applicants have not amended claims 33, 34 and 36, which depend on amended claim 1. However, the amendments to claim 1 should place these claims in proper condition for allowance.

Newly Added Claims

Applicants have added new claims 41-43. These claims do not contain new matter since they are the same as claims 16, 17 and 19.

No Additional Claim Fees Are Due

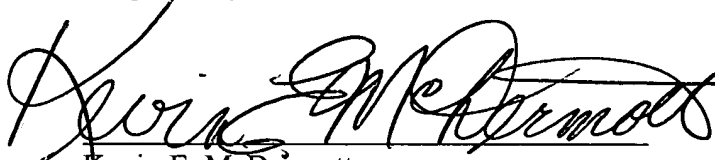
No additional claims fees are due. The Applicants amended claims 16 and 23 to independent claims so that the application now contains a total of three independent claims. The total number of claims is 35 (eight claims have been cancelled). When the original application was filed, Applicants paid the fee for a total of 40 claims.

Conclusion

The Applicants submit that the amendments to the claims overcome the rejections and that the amended claims are not obvious in view of the prior art. Accordingly, the Applicants respectfully request that the Examiner withdraw the rejections based on these references and allow the claims.

If the Examiner has any questions or comments relating to this election, the Examiner is respectfully invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin E. McDermott", is written over a horizontal line.

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